

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
at KNOXVILLE

BARRY C. MELTON	)	
	)	
<i>Petitioner,</i>	)	
	)	
v.	)	No. 3:05-cv-300
	)	<i>Phillips</i>
	)	
CHERRY LINDAMOOD, Warden	)	
	)	
<i>Respondent.</i>	)	

**MEMORANDUM AND ORDER**

Petitioner has filed a petition for the writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner was convicted of sexual battery and aggravated sexual battery. He previously filed a § 2254 petition attacking the same convictions. The previous petition was denied as time-barred. *Barry C. Melton v. Kevin Myers, Warden*, Civil Action No. 3:04-cv-205 (E.D. Tenn. March 16, 2005), *appeal pending*, No. 05-5505 (6th Cir.). The claims that petitioner now raises were not presented in the previous § 2254 petition.

In accordance with the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), effective April 24, 1996, the petitioner cannot file a second or successive § 2254 petition in the district court until he has moved in the United States Court of Appeals for the Sixth Circuit for an order authorizing the district court to consider the petition. This court has not received an order from the Sixth Circuit authorizing the court to consider the pending

petition. Accordingly, the Clerk is **DIRECTED** to transfer this action to the United States Court of Appeals for the Sixth Circuit, pursuant to 28 U.S.C. § 1631. *See In re Sims*, 111 F.3d 45 (6th Cir. 1997).

**E N T E R:**

s/ Thomas W. Phillips  
United States District Judge